IN THE

United States Supreme Court

OF

America

ED WETZEL, *Alleged Bankrupt.*

Vs.

WM. F. SCHAEFER, *Alleged Trustee.*

A PETITION FOR CERTIORARI.

To Circuit Court of Appeals, 5th Circuit.

by Ed Wetzel.

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IN THE

United States Supreme Court

OF

America

ON PETITION OF CERTIORARI,

The Court of Appeals, 5th Circuit.
of Ed Wetzel.

ED WETZEL, *Alleged Bankrupt.*

Vs.

WM. F. SCHAEFER, *Alleged Trustee.*

The Petition and Schedules filed Nov. 13, 1928, by L. C. Albright were withdrawn on December 11, 1928. Under Section 3 or 21, of Bankrupt Act, Sub Section C and E in all respects complied with Section C of Act 21.

On Petition for Certiorari under Rule 38 and Amendments May 22, 1939, Appendix to Rules, and especially Rule 38 B and Sec. 237 A and B as amended.

Ed Wetzel petitions the United States Supreme Court to require the United States Circuit Court of Appeals for the 5th Circuit to send the records, the opinion or decision, the briefs and pleadings up to the Supreme Court of the United States for examination.

Notice has been mailed to William F. Schaefer, alleged trustee, c/o C. B. Coleman as Referee, Birmingham, Alabama, of Petition of Certiorari herein, the Court of Appeals, 5th Circuit, refused or failed to give a hearing on any of the errors assigned.

ED WETZEL,
Movant for Certiorari of Good Character.

ASSIGNMENT OF ERROR

By

COURTS BELOW.

The District Court of Birmingham, Alabama, did not consider or decide any of Defendant Ed Wetzel's pleadings except that plea to jurisdiction, a copy refiled in 1943 and the Court of Appeals did likewise and refused to give a hearing on said points of errors assigned.

There is no record of any minute entry in the record and there is no judgment of the claim in the record. As elsewhere, then is no Judgement. There is no Judgement as claimed in Existence and the alleged Judgement was nullified by the Jefferson County, Alabama, Equity Court, which decree of the State Court must be construed in the same manner and effect as if it was a Judgement or decree and had been rendered or passed in a Court of the United States. Since the State Equity Court was the highest Court and the last Court, no appeal was taken or other action and cannot now be taken.

The Congressional Act amended May 22, 1939, page 8 of Rule, Section "C" of same, a Writ of Errors or "D" Writ of Certiorari, a stay may be granted by a Judge of the Supreme Court.

This Certiorari is taken under Section "B" of Rule 38 and Appendix Rules as amended May 22, 1939.

The Writ of Error intended to bring any judgement or Decree before the Circuit Court of Appeals, 5th Circuit, for Review shall be filed within three months from Judgement or Decree of Court. Decree was first rendered November 21, 1947. Rehearing denied December 28, 1947. Writ of Error declined December 28, 1947. In the Circuit Court of Appeals, 5th Circuit, the Assignment of Error and Pleading had been presented to the Clerk of the Court of Appeals, 5th Circuit, December 13, 1947, and was returned unacted upon, December 28, 1947, and is attached herewith. The Decree of the State Equity Court of Jefferson County, Alabama, has the same effect as if it were made by a United States Court and must be so construed. See Record page 12 and 13 and page 70 of the record for Decree of Equity Court nullifying the alleged judgement claimed by Mrs. L. C. Fletcher and trustee.

The accused's evidence cannot be disregarded by Judges or Juries. He is a competent witness for himself.

The Petitioner is being held without jurisdiction of the court that sent him to Kilby Prison. Opinion of Court of Appeals, 5th Circuit.

In The

UNITED STATES SUPREME COURT

of

AMERICA

ED WETZEL, *Alleged Bankrupt Appellant.*

Vs.

WM. F. SCHAEFER, *Alleged Trustee.*

BRIEF OF ED WETZEL

and

ASSIGNMENTS OF ERROR MADE BY

United States Circuit

Court of Appeals,

5th Circuit.

Certiorari application is made.

The alleged trustee did not assess for taxes or pay any State taxes on property he claims for more than 17 years and all is held under tax titles superior to any other liens for $1,850.00 against trustee which must be paid first. Alabama State laws make tax liens superior to any other claims.

Code of Ala. 1923 and 1940.

The Circuit Court of Appeals, 5th Circuit, erred in disregarding Ed Wetzel's withdrawal of December 11, 1928, the Original Petition and Schedules alleged filed by L. C. Albright, November 13, 1928, without authority, (Record—— page 36 and 39). Bill of Exceptions filed January 17, 1929, for review and Petition for Review filed January 17, 1929, (Record—— page 168-169), on which this appellant has never been heard by any Court to this date, January 30, 1948, by District Court or Court of Appeals for 5th Circuit and is assigned as error by Certiorari.

The Circuit Court of Appeals, 5th Circuit, erred further and so did the District Court of Northern District of Alabama, and the Referee in holding that Ed Wetzel was present at the hearing of M. Wunder, 6th of May, 1929, when Ed Wetzel was not in Jefferson County, Alabama, on said date. This is assigned as error by certiorari.

Cases cited, all of which were disregarded and ignored by Court of Appeals, 5th Circuit, and each citation is assigned as error on Certiorari.

The validity of a claim is determined under the local laws of the State where the case arose, must control. (Record ..... page 3).

Errickson v. Richardson, 86 Fed. 2nd 963.

The Writ of Errors shall have the same effect as if the Judgment or Decree had been rendered or passed in a Court of the United States:

A Congressional Act and
Representation enactments.
Sec. 237 "A" and "B" of Amendments
May 22, 1939, Supreme Court Rules, Page 1.

In part a final judgement of decree in any suit in the highest Court of a State in which a decision in the suit could be had, where is drawn in question the validity of a statute on the United States and the decision is against the validity; (or where is drawn in question the validity of a statute of any State,) etc., it may be reviewed by the Supreme Court of the United States upon a Writ of Error or Certiorari and the Writ of Error shall have the same effect as if the Judgement or Decree had been rendered or passed in a Court of the United States, etc.

Section 237 "A" of May 22nd Amendment, (22), 1939 (last 1943 is not usable because not in effect). The Amendment is to define jurisdiction of the Circuit Court of Appeals and for other purposes.

Section 8 "A" of same allows three months from the date of Decree, final of the Court of Appeals to appeal on Writ of Error application to the Supreme Court. See also Sections 8 "B" and 8 "D".

See Sections 9 and 10 of Amendment, May 22, 1939, cannot be dismissed but must be corrected by the Court so that it may be considered corrected.

So much of Sections 24 and 25 of the Bankrupt Act as regulate the mode of review by the Supreme Court in proceedings, controversies and cases therein named is amended.

The Petitioned Schedules were withdrawn December 11, 1928, (Record pages 36, 37, 38, and 39), and $20,000 and interest was pleaded since March 2, 1916. This evidence of September 16, 1945, is wholly indisputed. Petitions and Schedules were withdrawn all fully gone over and described in the Record and to pleadings and Writ of Error attached. Writ of Error is here claimed on Certiorari.

ASSIGNMENT OF ERRORS

Made by

COURT OF APPEALS

5TH CIRCUIT

for

Petition of Certiorari of

Ed Wetzel,

and Brief.

The Court of Appeals, 5th Circuit, erred in disregarding Ed Wetzel's withdrawal on December 11, 1928, the original Petition and Schedules allegedly filed by L. C. Albright, November 13, 1928, without authority as instructed by E. H. Dryer, a Referee. (Record ..... pages 36 to 39). Bill of Exception filed January 17, 1929, and Plea to Jurisdiction for Review and the Petition for Review is of Record pages 168 and 169, filed 11:35 A.M., January 17, 1929, on which Ed Wetzel has not been heard to this date, 1948, by the District Court nor by the Circuit Court of Appeals, 5th Circuit.

This is assigned as Error and excepted to on Certiorari.

The Court of Appeals, 5th Circuit, further erred as did the District Court for the Northern District of Alabama and the Referee in considering that Ed Wetzel was present at the hearing of one M. Wunder on May 6, 1929, when Ed Wetzel was not in Jefferson County, Alabama:

This is assigned as Error and excepted to on Certiorari.

Cases cited all of which were ignored by the Court of Appeals.

The validity of a claim is determined under the local laws of the State where the case arose must control.

Erickson v. Richardson
86 Fed. 2nd 963

Error assigned all Citation, etc. Errors are assigned as for Certiorari.

Want of jurisdiction is a question that the Court should consider whenever or however raised. This was disregarded by the Court of Appeals, 5th Circuit, and is assigned as Error and is excepted to. Record page 3: Plea of jurisdiction was filed December 11, 1928, and ignored by all Courts. Writ of Error claimed on Certiorari.

Columbus Realty Co. 101 Fed 965
Re: Marks Holding Co. 296 Fed. 516
Re: Sidinger v. Hargentine, 244 Fed. 719.

The striking Bankrupt's answer denying Bankruptcy and the refusal to allowed or permit Amendment is an abuse of Discreation assigned as Error and excepted to January 17, 1929, and December 11, 1928.

Record ..... Page 3
Sharland Co. v. Conklin
30 Fed. 2nd 489

Writ of Error is assigned on Certiorari.

Record ....Page 5. A Judgement must be entered on the minutes of the Court. The Judgment is only proven by the minute entry and unless formally entered it is not a Judgement. Because this was ignored by the Court of Appeals, 5th Circuit, it is assigned as Error by Writ of Errors and is excepted to on certiorari.

McCoullough Parks,. 199 Sec. 750

The jurisdiction of a State Court is upheld when a judgement creditor holding the alleged of their debtor have instituted suit in the State Courts to enforce the alleged lien more than four months before the Bankruptcy of the debtor. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as Error and is excepted to as Writ of Error, Certiorari.

Straton v. News, 283 U.S. 318.

Mrs. L. C. Fletcher filed suit in the State Equity Court of Jefferson County, Alabama, to test the validity of the alleged judgement February 17, 1918. Mrs. L. C. Fletcher made Ed Wetzel a respondent in said case in 1920 and Ed Wetzel within the time allowed pleaded that there was no such Judgement as claimed and pleaded set-off of $20,000.00 and interest 8%, semi-annually, since March 2, 1916. Mrs. L. C. Fletcher lost the case in the Equity Court and Wetzel pleaded other costs and expenses. (See Record ..... page 12 and 13 for Equity Court Decree and page 70.) The Petition and Schedules were withdrawn December 11, 1928, and $20,000.00 and interest on same was pleaded

since March 2, 1926, was pleaded in District Court at Birmingham, September 16, 1945, and against Trustee. (Disregarded).

The Court of Appeals ignored the Decree of the State Equity Court in nullifying the claim of Mrs. L. C. Fletcher and the trustee. (See for Decree—Record ..... Pages 12 and 13 and 70; 45 and 46.) This assigned as Error and excepted to for Certiorari.

A contingent claim or one pending in a Court undecided is not provable or allowable in Bankruptcy. This was ignored by the Court of Appeals and is assigned as Error and excepted to for Certiorari.

Straton v. News, 283 U. S. 318.

Where Bankrupt laws deal with property rights which are regulated by State laws, the Federal Courts in Bankruptcy will follow the State Courts. This was ignored by the Circuit Court of Appeals, 5th District, and Assigned as Error by Writ of Error and excepted to on Certiorari. (1933)

Re 287 U. S. 77
Re 274 U. S. 1

The extent and validity of a debtor's obligation to pay a creditor is that of the local State laws which govern debts and the Construction given by the Courts of the State of it's statutes relating thereto. This was ignored by the Circuit Court of Appeals, 5th Circuit, and assigned as Error by Writ of Error and excepted to on Certiorari.

(1932) Security Mtg. Co. v. Powers
278 U. S. 149

The contingency of the bankrupt's obligation may be such as to render the claim upon it incapable of proof. It may be one beyond the control of the creditor and dependent upon an event so fortuitous as to make it uncertain whether liability will ever attach or the contingency may be such as to make any valuation of the claim impossible even if thought liability had attached. This was ignored by the Circuit Court of Appeals, 5th Circuit, and assigned as error by Writ of Error and excepted to on Certiorari.

Record — Page 4 and 69

Maynard v. Elliott

283 U. S. 273

A claim for unliquidated damages arising out of pure tort which neither constitutes a breach of an express contract nor resultation any unjust enrichment of the tort fessor so as to form the basis of an implied contract for injury is not provable in Bankruptcy. This was ignored in the Circuit Court of Appeals, 5th Circuit, and is assigned as error by Writ of Error and excepted to on Certiorari.

Record — Page 4.

Schall v. Conar, 251 U. S. 239

The State Court has complete jurisdiction to determine the controversy of a claim and the trustee is bound by it. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error by Writ of Error and excepted to on Certiorari.

Re: 142 Fed. 2nd 245.

The Bankrupt Court must consent to determination by a State Court to determine controversy with respect to liens and to property in Bankrupt Court's possession. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error by Writ of Error and excepted to on Certiorari.

Magnolia Petroleum Co.

309 U. S. 657

314 U. S. .....

Ed Wetzel has never consented to proceedings in Bankruptcy and consent is necessary. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error by Writ of Error and excepted to on Certiorari.

Cases cited — Record page 4.

Excepted to for Certiorari.

The State Equity Court nullified and dismissed the claim of Judgements by Mrs. L. C. Fletcher the trustee and his lawyer. Dismissed out of Court the Claim of Judgement and charged complainants with costs. (Record — Pages 12-13- and 70). Assigned as Error on Certiorari. This was ignored by Court of Appeals, 5th Circuit, and is assigned as error, Writ of Errors claimed and excepted to an Certiorari.

See appellants Bill of Exceptions — Exhibit No. 2 Record — page 36 to 39 incl., in which he has not been heard by any Court to this date. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error, Writ of Errors claimed and excepted to on Certiorari.

He was not heard on this assignment of error by the District Court of the Northern District, nor the Court of Appeals, 5th Circuit, and is excepted to and claim of Writ of Errors.

The Bankrupt has the right to withdraw the Petition and Schedules prior to the time a claim is filed and a trustee appointed and against the objection of Creditors. Record — page 42. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error, Writ of Errors claimed and excepted to on Certiorari.

Re: Herbert 104 Fed. 322
Section 3 or 21 of Act. Sub. E as in effect 1928-29

Record — Page 42 as in effect December 11, 1928. This was ignored by the Court of Appeals, 5th Circuit, and assigned as error, claim of Writ of Errors and excepted to on Certiorari.

Unliquidated claims before Bankruptcy are not provable in Bankruptcy. Record — page 69. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error, claim of Writ of Error and excepted to on Certiorari.

Re: Henry Lewis 267 U. S. 467

Record — page 71.

There is not now or ever has been any minute entry on the Court minute records of the alleged Judgement by Trustee in the State Court. This assigned as error— if no minute entry, there is no Judgement. Writ of Error claimed and excepted to on Certiorari.

The Judgement must be entered on the minutes of the Court. Judgement is only proven by the minutes and unless formally entered it is not a judgement. This was ignored by the Court of Appeals, 5th Circuit, and assigned as error, Writ of Error claimed and excepted to on Certiorari. Record — pages 72 and 73.

McCollough v. Parks
199 Sou. 750
209 Ala. App. 610

If at the time of Bankruptcy a suit or proceeding is pending in a State Court over which the Federal Court otherwise has jurisdiction, the adjudicator does not oust the State Court of Jurisdiction and the State Court can hold its jurisdiction to final judgment of a controversy. The extent and validity of the debtor's obligation to pay a creditor is that of the local laws of the State which governs the debts and the construction given by the Courts of that State of its status relating thereto. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error. Writ of Error claimed and excepted to on Certiorari.

Record — page 72 and 73
(1928) Security Mortgage Co. v. Pawors
278 U. S. 149
and some 50 other citations
on this point.

In Bankruptcy there is a difference between a pure Tort in an alleged Judgement before Bankruptcy and the Judgement contingent such claims remains unliquidated at time of Bankruptcy. The unliquidated claim

is not provable. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error, Writ of Error claimed and excepted to on Certiorari.

Re: 267 U. S. 467

If the Petition was filed as claimed by opposition, by Ed Wetzel when he was non compis mentis, and he had no lucid intervals for several weeks nor could he distinguish right from wrong, nor could he read or understand the alleged petition, nor was it read to him, and in any event could not understand or know what was being done, and such persons can avoid the instrument so obtained. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error, Writ of Error is claim, and excepted to on Certiorari. Record — page 73.

Re: I. C. R. R. v. Johnson
65 L Ed 459 and 788
Re: 87 Sou. 866

Such a person cannot be adjudicated a Bankrupt. Writ of Error claimed.

Re: Kehler 162 F 674
Re: Ward 161 F 755.

The Bankrupt Court cannot review or annul a judgement of the State Court which subjects a lien or annuls a lien or property over which the State Court acquired jurisdiction prior to Bankruptcy proceedings against defendant and such judgement or decree is conclusive as to such defendant and the trustee in Bank-

ruptcy. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error, Writ of Error is claimed and excepted to on Certiorari. Record Page — 73.

Brown Shoe Co. v. Wyn
281 Fed. 807.

And see Record — pages 76 to 78; 12, 13 and 70 for dismissal of Mrs. L. C. Fletcher's claim, — out of Court November 23, 1935. This was ignored by the Court of Appeals, 5th Circuit, and is assigned as error, Writ of Error is claimed and excepted to on Certorari.

The notice given C. L. Phillips as trustee, January 5, 1929, is equal to a lis pendens notice. He was an agent for Mrs. L. C. Fletcher that no debts be provable in Bankruptcy arising out of a claim which becomes effective only at the Claimants option after the inception of the proceedings, the fulfillment of which is contingent on what may happen from month to month or upon the end of the original term such is not the equivalent of an agreement nor a debt certain.

Record — page 79.

This was ignored by the Court of Appeals, 5th Circuit, and is assigned as an error, a Writ of Errors is claimed, and excepted to on Certiorari.

Manhattan Property v. Irvin Trust
291 U. S. 320
Also see B of said case.

The Court of Bankruptcy has jurisdiction to order restoration of dividends as part of the regular proceedings in Bankruptcy.

Record — Page 79

This was ignored by the Court of Appeals, 5th Circuit and is assigned as error, a Writ of Error is claimed, and excepted to on Certiorari.

Re: 182 U. S. 438

There is no provision in the Bankruptcy Laws in conflict with the State laws allowing or providing for the discharge of the debts of a creditor who elects to participate under a general claim although the assignment constitutes under 3 "A" (5) an act of Bankruptcy. Writ of Error assignment claimed, and excepted to on Certiorari. Record — page 79

1933 Johnson vs. Star
287 U. S. 527.

Courts of Bankruptcy are Courts of Equity.

Record — page 79
1934 Lean Co. V. Hunt
292 U. S. 234
294 U. S. 648
1935 294 U. S. 442

A claimant of non-existing liens has a right to litigate in the State Court to avoid of liens in Bankruptcy. A Writ of Error claimed, excepted on Certiorari.

Record — page 79
Tauble, Scott, Kizmiller v. Fox
264 U. S. 426
Also see 291 U. S. 178 L Ed

The $20,000 and interest 8% since March 2, 1916, was pleaded against Mrs. L. C. Fletcher and trustee in the Equity Court of Jefferson County, Alabama, and the Decree (Record — pages 12, 13; 70, 76, 78) is a Judgement for Ed Wetzel. It is final and resjudicato in Bankruptcy. (See: Gilmer v. Grant 6 Division No. 388, March 1946, Supreme Court of Alabama 25 Sou. 2nd 262), and must be termed as if by the United States Court. Sec. 237 A and B of Rules adopted effective February 27, 1939. Error assigned, excepted to Writ of Error by Certiorari.

Record — page 86. Ed Wetzel testified in District Court:

In the first place the Petition and Schedules were withdrawn on December 11, 1928, and this is wholly undisputed, and is excepted to assigned Writ of Error.

Record — page 89. Stephen B. Coleman as Referee swore upon questions asked:

Q. Did you go to the State Court House here to investigate and see if there was a minute entry on that judgement of Mrs. L. C. Fletcher and trustee?

Assigned as Writ of Error by Certiorari.
Record — page 86

A. Yes, sir, I did.

Q. Did you find any minute entry?

A. No, sir.

Claimed by Writ of Error on Certiorari.

Record — Page 97 and 98.

Q. Withdrawn December 11, 1928. After that there wasn't any Petition in Bankruptcy, was there? You withdrew it.

Writ of Error claimed—Certiorari.

A. I withdrew them, yes. I gave Mr. Phillips notice just as quick as he was appointed that the Petition had been withdrawn.

(Writ of Error Claimed on Certiorari)

Q. After you withdrew your Petition then you didn't have any other further Petition in Bankruptcy, that was the end of it?

A. Yes, so far as I am concerned.

Writ of Error assignment—Certiorari.

Q. Did you file another petition after that?

A. No, sir.

Writ of Error assignment—Certiorari.

Q. Who marked out the printed form in that affidavit?

A. I did. It was before it was filed.

Q. Before it was filed?

A. Yes, sir.

(Writ of Error claimed—Certiorari.)

Record — page 101

A. Mr. Oberdorfer was down here once, he said would take the short cut. I told him that the petition

was withdrawn and all about it under the Bankrupt Act III "C" and "E" as in effect December 11, 1928, therefore the District Court or the Referee had not jurisdiction after December 11, 1928, to make orders.

(Writ of Error assigned)

Record — Page 103

Q. Isn't that a correct copy of the Petition you filed in Bankruptcy?

A. I know nothing about it.

(Writ of Error claimed—Certiorari)

Record — Page 104

Q. Now isn't it a fact that in connection with this other Petition you filed, this Exhibit "A" as shown here setting out the alleged judgement?

(Writ of Error Claimed—Certiorari)

A. I didn't file nothing and there is no minute report in Record to show any judgment.

(Writ of Error is claimed here on Certiorari)

Record — Page 105

A. They were copies gotten from the Court Clerk furnished by the Clerk. They are not certified.

Writ of Error is claimed)

(Because all are made from forged copies—

or no copies at all are forgery).

Record — page 107

Q. You have been convicted of Forgery at Bessemer, haven't you?

A. Yes, without jurisdiction of that Court. (See opinion of Court appeal)

(Writ of Error is claimed here—Certiorari.)

Record — Page 109

Q. You signed this paper and referred to it?

A. No, sir.

(Writ of Error is claimed here—Certiorari.)

A. They claimed they had a petition and I claimed that they had none and they failed in it. They did not have a petition or schedules in 1941 or 1942 and in 1946 they got petition and schedules which are self made petition and schedules and constitute forged papers or petition.

> The evidence of the accused cannot be ignored or disregarded by Judges or Jury. Alabama Laws (late laws).

Since plea of jurisdiction of Ed Wetzel, alleged Bankrupt, was filed in the Referee's Court and before the beginning December 11, 1928, and in (Re: Maston v. Dean 31 Fed. 2nd 945; Collier 14 add Sec. 1) said Bankrupt Courts being without jurisdiction of the original proceedings, all that is done under it is void. The assignments vacate all that is done. Sales invalidate. All titles worthless.

Error is assigned: Mason v. Dean
31 Fed. 2nd 945.
See Record — pages 31 and 32, 33 and 34
And Sec. B 10 Rec. Page 31.
Re: 294 U. S. 648
292 U. S. 426.
Assigned as Error on Certiorari.

See Record — pages 164, 165, 167. Petition for Review January 17, 1929.

See Record — pages 36 to 39 inclusive—for Exceptions—filed 11:35 A.M. Also filed was Plea to Jurisdiction of the Bankrupt Court at Birmingham, Alabama.

Ed Wetzel testified September 16, 1946, plea to Jurisdiction had set-off and Sec. 10B of Court's Rule is in pleading that L. C. Albright testified that he filed the Petition and Schedules on order of Referee Dyer who told him to file it and that Ed Wetzel was not present and that Ed Wetzel objected to the filing and that Albright went on and filed the petition.

Exceptions as assigned are errors
Claimed by Certiorari.

And fourth that Argie R. Mays on December 11, 1928, told Ed Wetzel that he knew Ed Wetzel did not file the Petition, that he had not seen Ed Wetzel before that day (Record — page 90, 91, 93)

Equity Court of Alabama dismissed Mrs. L. C. Fletcher's claim of Judgement out of Court and this is in evidence of September 16, 1945, and is assigned as error.

Petitioner Ed Wetzel objects to any attorney for the Trustee appearing for him in this Court or cause because the Record fails to show under Supreme Court Rule XLIV which is appointment of attorney for the trustee in City (Birmingham, Alabama) where District Court was held had 259,678 population in 1928 and said rule is:

> . . . In any District in which there is a city population of 250,000 or more, NO attorney for trustee shall be appointed except upon order of the court, (meaning the District Judge) and is only provided for in Supreme Court Rule XLIV as promulgated January 13, 1930. (This rule was equal to law)
> Exception is reserved for Certiorari.
> Besides the Attorney falsified most of his arguments, brief and pleadings.)

Rule 11 — Court of Appeals, 5th Circuit.

Appeals in proceeding and controversies arising in proceedings in Bankruptcy taken under Section 24 and 25 of the Act as amended June 22, 1938, in respects not provided for in said Sections or by General Order in Bankruptcy shall be governed by Rule for Appeals in civil actions.

The original Petition and Schedules were withdrawn on December 11, 1928, under Section 3C upon proof of not insolvent at time alleged petition was filed and "E" authorized to withdrawals of Petition by alleged petitioneer as in effect at said time.

ED WETZEL . . . is of good Character
Route No. 3, Box 115,
Montgomery, Ala.